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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/683,689	10/09/2003	Pandit Panburana	2705-305	9914

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EXAMINER	
PEZZLO, JOHN	
ART UNIT	**PAPER NUMBER**
2616	
MAIL DATE	**DELIVERY MODE**
07/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/683,689	PANBURANA ET AL.	
	Examiner	Art Unit	
	John Pezzlo	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-55* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-55* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *09 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 43 is objected to because of the following informalities: Use of the phase "capable of" in line 6 needs to be deleted since this phase renders the claim indefinite. Appropriate correction is required.

Claim Rejections - 35 USC § 101

Claim 49 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Line 1 needs to be amended, "An article of manufacturing" needs to be changed to "A computer readable media".

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

I. Claims 24-55 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-23 of U.S. Patent No. 6,633,582 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because comparing claims 1, 13, and 23 of the patent with claims 24, 34, and 43 of the application respectively, the following is noted:

1. Regarding claim 24 – Both claim 24 of the application and claim 1 of the patent have "receiving a remote capability set from the remote endpoint; selecting a local media format appearing in both the remote capability set and a local capability set; requesting a first transmit channel, in the local media format, with the remote endpoint; detecting the remote media format of a remote transmit channel opened by the remote endpoint; detecting potential conflicts between the first transmit channel local media format and the remote transmit channel remote media format;".

The application differs in that it doesn't disclose "without waiting for a response" prior to requesting a second channel with a new format that doesn't conflict.

It would have been obvious for a person of ordinary skill in the art at the time of the invention to close the conflicting channel and request a new channel ASAP since the formats are

compatible at each end the channel is not going to carry useful data. Therefore, closing "without waiting for a response" would be an obvious step to take. The suggestion/motivation for doing so would have been that the claim in the application states "when a potential conflict is detected" .... "requesting a second channel". The benefit being that the new channel will carry useful data.

2. Regarding claim 34 – Both claim 34 of the application and claim 13 of the patent have "means for detecting conflicts between locally-requested and remotely-requested codecs, means for synchronizing a locally-requested codec with a remotely-requested codec in response to a detected conflict, the synchronizing means operating to close an existing locally-requested codec and request a different codec that does not conflict with the remotely- requested codec".

The application differs in that it doesn't disclose "without waiting for a response" prior to requesting a second channel with a new format that doesn't conflict.

It would have been obvious for a person of ordinary skill in the art at the time of the invention to close the conflicting channel and request a new channel ASAP since the formats are compatible at each end the channel is not going to carry useful data. Therefore, closing "without waiting for a response" would be an obvious step to take. The suggestion/motivation for doing so would have been that the claim in the application states "when a potential conflict is detected" .... "requesting a second channel". The benefit being that the new channel will carry useful data.

3. Regarding claim 43 – Both claim 43 of the application and claim 23 of the patent have " a plurality of receive codecs and a plurality of transmit codecs, a codec synchronizer that initiates a request for a first transmit codec, from a set of codecs supported by a remote endpoint, prior to

the media gateway receiving a request from that remote endpoint for a receive codec, and a codec conflict detector capable of indicating, after receiving a request from the remote endpoint for a receive codec, that a second transmit codec is a better match for the receive codec than the first transmit codec, the codec synchronizer responding to an indication from the codec conflict detector by closing the requested transmit codec and requesting the second transmit codec".

The application differs in that it doesn't disclose "without waiting for a response" prior to requesting a second channel with a new format that doesn't conflict.

It would have been obvious for a person of ordinary skill in the art at the time of the invention to close the conflicting channel and request a new channel ASAP since the formats are compatible at each end the channel is not going to carry useful data. Therefore, closing "without waiting for a response" would be an obvious step to take. The suggestion/motivation for doing so would have been that the claim in the application states "when a potential conflict is detected" .... "requesting a second channel". The benefit being that the new channel will carry useful data.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Riddle (US 6,175,856 B1) discloses method and apparatus for dynamic selection of compression processing during teleconference call initiation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Pezzlo whose telephone number is (571) 272-3090. The examiner can normally be reached on Monday to Friday from 8:30 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Patel, can be reached on (571) 272-2988. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C.

or faxed to:

(571) 273-8300

For informal or draft communications, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Jefferson Building

2A15

500 Dulany Street

Alexandria, VA, 22313.

John Pezzlo

13 July 2007

JOHN PEZZLO
PRIMARY EXAMINER